

Subpart E—Department Counsel Requirements

719.40 What is the role of Department counsel as a contracting officer's representative?

719.41 What information must be forwarded to the General Counsel's Office concerning contractor submissions to Department counsel under this part?

719.42 What types of field actions must be coordinated with Headquarters?

APPENDIX TO PART 719—GUIDANCE FOR LEGAL RESOURCE MANAGEMENT

AUTHORITY: 42 U.S.C. 2201, 5814, 5815 and 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*

SOURCE: 66 FR 4621, Jan. 18, 2001, unless otherwise noted.

Subpart A—General Provisions

§ 719.1 What is the purpose of this part?

This part is intended to facilitate control of Department and contractor legal costs, including litigation costs. The contractor is required to develop a procedure for retaining legal counsel, and to document the analysis used to decide when, where and who will be engaged as outside counsel and the terms of the engagement. Payment of law firm invoices and reimbursement of contractor legal costs under covered contracts is subject to compliance with this part.

§ 719.2 What are the definitions of terms used in this part?

For purposes of this part:

Alternative dispute resolution includes processes such as mediation, neutral evaluation, mini-trials and arbitration.

Contractor means any person or entity with whom the Department contracts for the acquisition of goods or services.

Covered contracts means those contracts described in § 719.3.

Department means the Department of Energy, including the National Nuclear Security Administration.

Department counsel means the individual in the field office, or Headquarters office, designated as the contracting officer's representative and point of contact for a contractor or Department retained legal counsel, for purposes of this part only, for submission and approval of the legal manage-

ment plan, advance approval of certain costs, and submission of a staffing and resource plan, as addressed in this part.

Legal costs include, but are not limited to, administrative expenses associated with the provision of legal services by retained legal counsel; the costs of legal services provided by retained legal counsel; the costs of the services of accountants, consultants, or others retained by the contractor or by retained legal counsel to assist retained legal counsel; and any similar costs incurred by or in connection with the services of retained legal counsel.

Legal management plan means a statement describing the contractor's practices for managing legal costs and matters for which it procures the services of retained legal counsel.

Retained legal counsel means members of the bar working in the private sector, either individually or in law firms, who are retained by a contractor or the Department to provide legal services.

Significant matters means legal matters, including litigation, involving significant issues as determined by Department counsel, and any legal matter where the amount of any legal costs, over the life of the matter, is expected to exceed \$100,000.

Staffing and resource plan means a statement prepared by retained legal counsel describing plans for managing a significant matter.

§ 719.3 What contracts are covered by this part?

(a) This part covers cost reimbursement contracts:

(1) For an amount exceeding \$100,000,000, and

(2) Involving work performed at the facilities owned or leased by the Department.

(b) This part covers contracts otherwise not covered by paragraph 3(a) of this section containing a specialized clause requiring compliance with this part.

(c) This part also covers Department contracts with retained legal counsel where the legal costs are expected to exceed \$100,000.